



Attorney General Jon Bruning

# NEWS RELEASE

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Contact: Leah Bucco-White  
402-471-2067

[Leah.bucco-white@nebraska.gov](mailto:Leah.bucco-white@nebraska.gov)

## Distribution Center Manager Sentenced to Jail Time in Fuel Scam

**Note: A sound bite on this topic will be available shortly at: <http://www.ago.ne.gov>**

(Lincoln, Neb.) Attorney General Jon Bruning announced that Tim Kaup, the general manager of the Sapp Bros distribution center in West Point, was sentenced to 45 days in jail, two years probation, an \$8,000 fine and 240 hours of community service in Burt County Court today. Kaup was also ordered to publish an apology in a Scribner-area paper.

Kaup was charged with aiding and abetting Tom Wiese, who owns gas stations in Scribner (Scribner Express) and Decatur (Decatur Express), in committing seven counts of theft by deception, one count of criminal simulation and one count of deceptive advertising. Kaup pleaded guilty to all charges.

In August, a joint investigation by the Attorney General's Office and the Nebraska Department of Agriculture's Division of Weights and Measures showed Kaup actively promoted the idea of selling ethanol-blended gasoline at unleaded prices to store owners.

"Mr. Kaup encouraged gas station owners to take advantage of unsuspecting customers," said Bruning. "We did our best to make sure he didn't get away with it."

The investigation also found that Wiese was selling ethanol-blend gasoline to customers at the higher unleaded price. People pumped and purchased what they thought was unleaded gas but what they really got was the lower-priced ethanol blend.

Wiese pleaded guilty to three counts of theft by deception, one count of criminal simulation, and one count of deceptive advertising in November and was sentenced to pay maximum fines totaling \$4,000 plus court costs. Wiese cooperated with investigators. The plea agreement was contingent upon his continued cooperation and testifying in court if needed.

Theft by deception is a class II misdemeanor with a penalty of up to six months in jail and a \$1,000 fine. Criminal simulation and deceptive advertising are class III misdemeanors punishable by up to three months in jail and \$500 fine.

Current state law doesn't allow prosecutors to add the financial losses of multiple victims together. Bruning included the Public Protection Act (LB 155) in his office's 2009 legislative package. A portion of this bill, sponsored by Sen. Kent Rogert, would allow the financial losses of multiple victims to be added together to increase the level of charges and penalties.

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In 2008, the Attorney General's Office received more than 90 gas complaints from consumers across Nebraska involving 35 stations. Issues raised include pricing, advertising and pump calibration. More than a dozen stations are currently under investigation.

Assistant Attorney General Greg Ariza handled the case.

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